

Robert F. Varady, Esq.  
LA CORTE, BUNDY, VARADY & KINSELLA  
989 Bonnel Court  
Union, NJ 07083  
(908) 810-0500  
Attorneys for Defendants, Elizabeth Police Department,  
Alfonso Colon, and James Szpond

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

KHASEEM GREENE,

Plaintiff,

vs.

ELIZABETH POLICE DEPARTMENT;  
ALFONSO COLON; JAMES SZPOND;  
UNION COUNTY PROSECUTOR'S  
OFFICE; PARTICIA CRONIN; STEPHEN  
KAISER; DEBORAH WHITE; MARK  
SPIVEY; JOHN/JANE DOES 1 through 10,

Defendants.

Civil Action No. 2:18-cv-08972

Civil Action

**ANSWER TO COMPLAINT,  
CROSSCLAIMS, SEPARATE  
DEFENSES, JURY DEMAND &  
ANSWER TO CROSSCLAIMS**

Defendants Elizabeth Police Department, Alfonso Colon and James Szpond, by way of  
Answer to Plaintiff's Complaint say:

**NATURE OF ACTION**

1. This paragraph is argumentative rather than stating facts. To the extent that it may be construed to allege facts against the Defendants, same are denied.
2. This paragraph is argumentative rather than stating facts. To the extent that it may be construed to allege facts against the Defendants, same are denied.

3. This paragraph is argumentative rather than stating facts. To the extent that it may be construed to allege facts against the Defendants, same are denied.
4. This paragraph is argumentative rather than stating facts. To the extent that it may be construed to allege facts against the Defendants, same are denied.
5. This paragraph is argumentative rather than stating facts. To the extent that it may be construed to allege facts against the Defendants, same are denied.
6. This paragraph is argumentative rather than stating facts. To the extent that it may be construed to allege facts against the Defendants, same are denied.

#### **JURISDICTION AND VENUE STATEMENT**

7. This paragraph alleges legal theories rather than setting forth facts. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.
8. This paragraph alleges legal theories rather than setting forth facts. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.
9. This paragraph alleges legal theories rather than setting forth facts. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.
10. This paragraph alleges legal theories rather than setting forth facts. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

11. This paragraph alleges legal theories rather than setting forth facts. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

12. This paragraph alleges legal theories rather than setting forth facts. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

13. This paragraph alleges legal theories rather than setting forth facts. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

### **PARTIES**

14. These Defendants are without sufficient knowledge to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

15. The allegations of this paragraph are admitted.

16. The allegations of this paragraph are admitted.

17. The allegations of this paragraph are admitted.

18. The allegations of this paragraph are not directed to these Defendants and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

19. The allegations of this paragraph are not directed to these Defendants and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

20. The allegations of this paragraph are not directed to these Defendants and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

21. The allegations of this paragraph are not directed to these Defendants and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

22. The allegations of this paragraph are not directed to these Defendants and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

23. The allegations of this paragraph are not directed to these Defendants and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

24. The allegations of this paragraph are not directed to these Defendants and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

25. The allegations of this paragraph are not directed to these Defendants and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

### **FACTUAL ALLEGATIONS**

#### **A. All Star Café Shooting & Initial Investigation**

26. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

27. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

28. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

29. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

30. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

31. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

32. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

33. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

34. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

35. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

36. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

37. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

**B. Sanders Interrogation & Police Defendants Initial Concealment/Fabrication of Evidence**

38. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

39. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

40. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

41. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

42. The allegations of this paragraph are denied.

43. The allegations of this paragraph are denied.

44. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

45. The allegations of this paragraph are denied.

46. The allegations of this paragraph are denied.

47. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

**C. Colon and Prosecutor Defendants Present Manufactured, Fabricated Evidence to Grand Jury; Prosecutor Defendants Defame Plaintiff, Lying to Press; Plaintiff cut by Chiefs**

48. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

49. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.
50. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.
51. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.
52. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.
53. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.
54. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.
55. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

**D. Plaintiff Retains New Counsel; Motions for a Probable Cause Hearing, Dismissal of the Indictment, Speedy Trial and to Compel the Production of Discovery are Immediately Filed on Behalf of Plaintiff**

56. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

57. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

58. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

59. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to these Defendants, same are denied.

60. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to these Defendants, same are denied.

61. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

62. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

63. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

64. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.



65. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

66. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

67. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

**E. Prosecutor's Office Changes their "Theory of the Case", Ultimately Dismissing Indictment Against Plaintiff**

68. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

69. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

70. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

71. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

72. These Defendants are without sufficient information to admit or deny the allegations of this paragraph and leave Plaintiff to his proofs.

73. The allegations of this paragraph are denied.

74. The allegations of this paragraph are denied.

**ADDITIONAL FACTS SURROUNDING LIABILITY**

75. The allegations of this paragraph are denied.

76. The allegations of this paragraph are denied.

77. The allegations of this paragraph are denied.

78. The allegations of this paragraph are denied.

79. The allegations of this paragraph are denied.

80. The allegations of this paragraph are denied.

81. The allegations of this paragraph are denied.

82. The allegations of this paragraph are denied.

83. The allegations of this paragraph are denied.

**CAUSES OF ACTION**  
**COUNT ONE**  
**VIOLATION OF 42 U.S.C. § 1983**  
**(Civil Action for Deprivation of Rights)**  
**(All Defendants)**

84. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

85. This paragraph alleges legal theories rather than setting forth facts. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

86. The allegations of this paragraph are denied.

87. The allegations of this paragraph are denied.

88. The allegations of this paragraph are denied.

89. The allegations of this paragraph are denied.

90. The allegations of this paragraph are denied.

**COUNT TWO**  
**VIOLATION OF 42 U.S.C. § 1981**  
**(Violation of Equal Rights Under the Law)**  
**(All Defendants)**

91. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

92. The allegations of this paragraph are denied.

93. The allegations of this paragraph are denied.

94. The allegations of this paragraph are denied.

**COUNT THREE**  
**VIOLATION OF 42 U.S.C. § 1985**  
**(Conspiracy to Violate Civil Rights)**  
**(All Defendants)**

95. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

96. The allegations of this paragraph are denied.

**COUNT FOUR**  
**VIOLATION OF 42 U.S.C. § 1986**  
**(Failure to Prevent Violations of Civil Rights)**  
**(All Defendants)**

97. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

98. The allegations of this paragraph are denied.

99. The allegations of this paragraph are denied.

100. The allegations of this paragraph are denied.

**COUNT FIVE**  
**VIOLATION OF 42 U.S.C. § 1983**  
**(Negligent Screening, Hiring, Training, Supervising and**  
**Retention of Dangerous Discriminatory Employees)**  
**(As to EPD and UCPO)**

101. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

102. The allegations of this paragraph are denied.

103. The allegations of this paragraph are denied.

104. The allegations of this paragraph are denied.

**COUNT SIX**  
**NEW JERSEY STATE CIVIL RIGHTS ACTION/STATE CONSTITUTIONAL CLAIM**  
**(N.J.S.A. 10:6-1, *et seq.*)**  
**(All Defendants)**

105. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

106. The allegations of this paragraph are denied.

107. The allegations of this paragraph are denied.

108. The allegations of this paragraph are denied.

**COUNT SEVEN**  
**WILLFUL DISREGARD**  
**(All Defendants)**

109. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

110. The allegations of this paragraph are denied.

111. The allegations of this paragraph are denied.

112. The allegations of this paragraph are denied.

**COUNT EIGHT**  
**ABUSE OF PROCESS**  
**(All Defendants)**

113. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

114. The allegations of this paragraph are denied.

115. The allegations of this paragraph are denied.

116. The allegations of this paragraph are denied.

**COUNT NINE**  
**FALSE ARREST AND IMPRISONMENT**  
**(All Defendants)**

117. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

118. The allegations of this paragraph are denied.

119. The allegations of this paragraph are denied.

120. The allegations of this paragraph are denied.

121. The allegations of this paragraph are denied.

**COUNT TEN**  
**MALICIOUS PROSECUTION/CONSPIRACY TO COMMIT**  
**MALICIOUS PROSECUTION**  
**(All Defendants)**

122. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

123. The allegations of this paragraph are denied.

124. The allegations of this paragraph are denied.

125. The allegations of this paragraph are denied.

126. The allegations of this paragraph are denied.

127. The allegations of this paragraph are denied.

**COUNT ELEVEN**  
**NEGLIGENCE**  
**(All Defendants)**

128. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

129. The allegations of this paragraph are denied.

130. The allegations of this paragraph are denied.

131. The allegations of this paragraph are denied.

132. The allegations of this paragraph are denied.

133. The allegations of this paragraph are denied.

**COUNT TWELVE**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(All Defendants)**

134. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

135. The allegations of this paragraph are denied.

136. The allegations of this paragraph are denied.

137. The allegations of this paragraph are denied.

**COUNT THIRTEEN**  
**DEFAMATION**  
**(UCPO; Spivey)**

138. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

139. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

140. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

141. The allegations of this paragraph are not directed to these Defendants, and, accordingly, these Defendants make no answer thereto. To the extent that the allegations of this paragraph may be construed to refer to these Defendants, same are denied.

**COUNT FOURTEEN**  
**VICARIOUS LIABILITY**  
**(EPD; UCPO)**

142. Defendants repeat their answers to the allegations of all prior paragraphs as mentioned more fully set forth therein.

143. The allegations of this paragraph are denied.

144. The allegations of this paragraph are denied.

145. The allegations of this paragraph are denied.

146. The allegations of this paragraph are denied.

147. The allegations of this paragraph are denied.

148. The allegations of this paragraph are denied.

**PRAYER FOR RELIEF**

149. These Defendants deny Plaintiff's entitlement to the requested relief.

**WHEREFORE**, defendants Elizabeth Police Department, Alfonso Colon and James Szpond demand judgment of dismissal of the Complaint, together with costs.

**SEPARATE DEFENSES**

**First Separate Defense**

These Defendants are free of any and all negligence.

**Second Separate Defense**

These Defendants acted in a reasonably prudent manner at all times.

**Third Separate Defense**

The Plaintiff's claims against these Defendants are barred by the applicable Statute of Limitations.

**Fourth Separate Defense**

The Plaintiff's Complaint fails to state a cause of action upon which relief may be granted.

**Fifth Separate Defense**

Any damages or injuries sustained by the Plaintiff were caused by the negligence of a third party or parties over whom these Defendants exercised no control.

**Sixth Separate Defense**

Any claim of Plaintiff is barred by contributory negligence and/or limited by comparative negligence.

**Seventh Separate Defense**

This Plaintiff's Complaint is barred by the provisions of the New Jersey Tort Claims Act, *N.J.S.A. 59:1-1, et seq.*

**Eighth Separate Defense**

These Defendants are immune from liability pursuant to the provisions of *N.J.S.A. 59:3-1, et seq.*

**Ninth Separate Defense**

Any recovery by Plaintiff is barred or limited by the conditions of suit and judgment set forth at *N.J.S.A. 59:9-1, et seq.*



**Tenth Separate Defense**

The Plaintiff's Complaint is barred by the notice provisions of *N.J.S.A. 59:8-1, et seq.*

**Eleventh Separate Defense**

Any recovery to which the Plaintiff might otherwise be entitled is subject to reduction in accordance with the limitations on damages provided in *N.J.S.A. 59:9-1, et seq.*

**Twelfth Separate Defense**

The Plaintiff has failed to meet the injury threshold set forth in the Tort Claims Act and therefore the Plaintiff's claims are barred pursuant to *N.J.S.A. 59:9-1, et seq.*

**Thirteenth Separate Defense**

The Plaintiff has failed to issue process within the time required by law and these Defendants are entitled to dismissal of this action.

**Fourteenth Separate Defense**

Any actions taken by these Defendants were taken in good faith.

**Fifteenth Separate Defense**

Any injuries claimed by Plaintiff was not caused or contributed to by these Defendants.

**Sixteenth Separate Defense**

Injuries, if any, sustained by Plaintiff could not have been prevented by these Defendants.

**Seventeenth Separate Defense**

These Defendants are not liable to Plaintiff, as all acts were performed under absolute immunity.

**Eighteenth Separate Defense**

These Defendants are not liable to Plaintiff as all acts were performed in good faith and pursuant to qualified immunity.

**Nineteenth Separate Defense**

These Defendants are immune from liability as to the acts complained of.

**Twentieth Separate Defense**

Plaintiff's claims against these Defendants are barred, in whole or in part, where same are based on agency and/or *Respondeat Superior*.

**Twenty-First Separate Defense**

Plaintiff's Complaint is barred by the intervening intentional or negligent acts of Plaintiff.

**Twenty-Second Separate Defense**

These Defendants are immune from liability pursuant to the provisions of *N.J.S.A. 59:5-1, et seq.*

**Twenty-Third Separate Defense**

Plaintiff has not set forth sufficient facts to establish liability of these Defendants.

**Twenty-Fourth Separate Defense**

These Defendants did not ratify or condone in any manner whatsoever any wrongdoing or any violation of any rights of Plaintiff.

**Twenty-Fifth Separate Defense**

Plaintiff has not been deprived of any right, privilege or immunity secured by the United States Constitution or any act of Congress and/or Constitution and law of the State of New Jersey by these Defendants.

**Twenty-Sixth Separate Defense**

These Defendants did not commit any of the acts alleged by Plaintiff in the Complaint.

**Twenty-Seventh Separate Defense**

These Defendants' conduct, if any, does not give rise to a cause of action under 42 *U.S.C.* 1983, *et seq.*

**Twenty-Eighth Separate Defense**

Plaintiff has suffered no provable damages.

**Twenty-Ninth Separate Defense**

At no time did these Defendants engage or assist in an unlawful custom, practice or policy.

**Thirtieth Separate Defense**

These Defendants hereby reserve the right to interpose such other defenses and objections as continuing discovery may disclose.

**CROSSCLAIM FOR CONTRIBUTION AND/OR INDEMNIFICATION**

Defendants Elizabeth Police Department, Alfonso Colon and James Szpond, while denying any liability, assert that any and all injuries and damages were the proximate result of the conduct of co-defendants Union County Prosecutor's Office, Patricia Cronin, Stephen Kaiser, Deborah White, Mark Spivy and John/Jane Does 1 through 10, and hereby demand contribution and/or indemnification, together with costs of suit, counsel fees, interest and such other relief as the Court may deem equitable and just.

**ANSWERS TO CROSSCLAIM**

Elizabeth Police Department, Alfonso Colon and James Szpond, by way of Answer to any and all Cross-claims heretofore or hereafter asserted against them, deny each and every allegation set forth in such Cross-claims and demand dismissal of same.

**JURY DEMAND**

Defendant demands a jury trial on all issues.

**LOCAL CIVIL RULE 11.2 CERTIFICATION**

The undersigned counsel hereby certifies that the within matter in controversy is not the subject of any other action pending in any court or of a pending arbitration or administrative proceeding and that, to the best of counsel's knowledge, there is no other party who should be joined in this action.

LACORTE, BUNDY, VARADY & KINSELLA

s/Robert F. Varady

Robert F. Varady, Esq.

Dated: August 27, 2018